

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE:**

**C&D COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24726-GLT**

**Chapter 11**

**Document No.**

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**DERRY COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24727-GLT**

**Chapter 11**

**Document No.**

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**C&D COAL COMPANY, LLC and  
DERRY COAL COMPANY, LLC,**

**Movants,**

**Hearing Date and Time:  
December 21, 2017 at 10:30 a.m.**

**vs.**

**KINGSTON COAL COMPANY,  
KINGSTON GAS COMPANY,  
JOHNSON INDUSTRIES,  
EVEREST BUSINESS FUNDING,  
RTB HOLDINGS, LLC,  
INTEGRITY COAL SALES, INC.,  
WESTMORELAND COUNTY TAX  
CLAIM BUREAU, PENNSYLVANIA  
DEPARTMENT OF REVENUE,  
PENNSYLVANIA DEPARTMENT OF  
LABOR AND INDUSTRY,**

**Respondents.**

**JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK  
FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

And now, come C&D Coal Company, LLC and Derry Coal Company, LLC, the Debtors in the above Chapter 11 Cases, by and through their Counsel, Robert O Lampl, John P. Lacher, David L. Fuchs and Ryan J. Cooney, and file the following **JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**, as follows:

1. The Movants are C&D Coal Company, LLC and Derry Coal Company, LLC, the Debtors in the above Chapter 11 Cases.

2. The Movants commenced their Chapter 11 Cases on December 22, 2016.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Section 1334, 28 U.S.C. Section 157 and 11 U.S.C. Section 363.

4. The Movants are the owners of certain Real and Personal Property set forth in **EXHIBIT A** hereto which is incorporated herein and made a part hereof. As to the Real Property interests to be sold, the descriptions of said interests are set forth in **EXHIBIT B** (*re: Derry Coal 104 acres*), **EXHIBIT C** (*C&D Coal 19,000 acres coal and gas rights*), **EXHIBIT D** (*C&D Coal 84 surface acres in Latrobe, PA*) and **EXHIBIT E** (*C&D Coal 114 acres of coal and gas rights in Derry, PA*). All such exhibits are attached hereto and incorporated herein.

5. The Movants propose that its assets be sold in bulk pursuant to a Public Sale to take place in this Honorable Court and to be conducted on **December 21, 2017 at 10:30 a.m. in Courtroom A, 54<sup>th</sup> Floor, U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219.**

6. Simultaneously with the filing of the within Motion, the Debtors will file a Motion to Approve Bidding Procedures. Said Bidding Procedures will be included in the Notice of Sale which will be advertised in accordance with W.PA.LBR 6004.1.

7. Per the Motion to Approve Bidding Procedures, a reserve price in the amount of Ten Million Dollars (\$10,000,000.00) will be established as the bulk minimum purchase price. If the Court determines that each Debtor's assets are to be sold separately, the Ten Million Dollars (\$10,000,000.00) reserve price shall be attributed as Nine Million Dollars (\$9,000,000.00) for C&D's assets and One Million Dollars (\$1,000,000.00) for Derry's assets.

8. Following a lien search based upon the Real Property descriptions set forth in Exhibits B, C, D and E attached hereto and the UCC filings in regard to the equipment to be sold, it has been determined that the Respondents which may hold liens, claims and encumbrances against the Debtors' assets are as follows:

- a. Kingston Coal Company;
- b. Kingston Gas Company;
- c. Johnson Industries;
- d. Everest Business Funding;
- e. RTB Holdings, LLC
- f. Integrity Coal Sales, Inc.,
- g. Westmoreland County Tax Claim Bureau;
- h. Pennsylvania Department of Revenue; and
- i. Pennsylvania Department of Labor & Industry

9. The Debtors will additionally provide notice to various property owners which entered into agreements with Kingston Coal Company and Kingston Gas Company which agreements involve the mining of coal and gas on the properties owned by said property owners. The mining rights provided for in said agreements were ultimately assigned by the Kingston entities to Debtor C&D Coal Company, LLC. The property owners have no liens, claims or encumbrances against Debtor C&D's interests and the contemplated sale is not intended to, and will not, terminate or divest the mining rights which are the subject of the assignment to C&D. As such, the property owners are not being named as Respondents to this Sale Motion but will be notified and provided with an opportunity to be heard nonetheless.

10. The Debtors believe that the proposed Public Sale is in the best interest of the Chapter 11 Estates.

WHEREFORE, the Debtors respectfully request that this Honorable Court enter an Order approving the Public Sale of Debtors' Assets in Bulk, Free and Clear of all Liens, Claims and Encumbrances.

Respectfully Submitted,

Date: November 2, 2017

/s/ Robert O Lampl  
ROBERT O LAMPL  
PA I.D. #19809  
JOHN P. LACHER  
PA I.D. #62297  
DAVID L. FUCHS  
PA I.D. #205694  
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**IN RE:**

**C&D COAL COMPANY, LLC,  
  
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CLAIM BUREAU, PENNSYLVANIA  
DEPARTMENT OF REVENUE,  
PENNSYLVANIA DEPARTMENT OF  
LABOR AND INDUSTRY,**

**Respondents.**

**CERTIFICATE OF SERVICE**

Robert O Lampl, John P. Lacher, David L. Fuchs and Ryan J. Cooney, hereby certify that on the 2<sup>nd</sup> day of November, 2017, a true and correct copy of the foregoing **JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES** was served upon the following (*via Electronic service and/or First-Class U.S. Mail as noted below*):

Office of the U.S. Trustee  
1001 Liberty Avenue  
970 Liberty Avenue  
Pittsburgh, PA 15222  
(*via Electronic Service*)

**RESPONDENTS (via First-Class U.S. Mail):**

Michael J. Roeschenthaler  
Whiteford, Taylor & Preston, LLP  
200 First Avenue, 3<sup>rd</sup> Fl.  
Pittsburgh, PA 15222  
(*Counsel for the Official Committee of Unsecured Creditors*)

Everest Business Funding  
2001 NW 107<sup>th</sup> Avenue, 3<sup>rd</sup> Fl.  
Miami, FL 33172

Integrity Coal Sales, Inc.  
905 Marconi Avenue  
Ronkonkoma, NY 11779

Johnson Industries  
101 Pine Fork  
Pikeville, KY 41501

Kingston Coal Co./Kingston Gas Co.  
200 Guckert Lane  
Wexford, PA 15090

William E. Kelleher, Jr.  
Cohen & Grigsby PC  
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(*Counsel for Kingston Coal Co./Kingston Gas Co.*)

PA Department of Labor and Industry  
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Harrisburg, PA 17121

PA Department of Revenue  
Bankruptcy Division  
P.O. Box 280946  
Harrisburg, PA 17128-0946

Robert C. Edmundson  
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Pittsburgh, PA 15219-2992

RTB Holdings LLC  
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Mark A. Lindsay  
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Pittsburgh, PA 15222  
(*Counsel for RTB Holdings, LLC*)

Westmoreland County Tax Claim Bureau  
40 N. Pennsylvania Avenue, Ste. 109  
Greensburg, PA 15601

**INTERESTED PARTIES (via First-Class U.S. Mail):**

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Washington, PA 15301

Raymond and Katherine Kerber  
110 Lee Valley Road  
Derry, PA 15627



Dana A. Yealy  
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Wexford, PA 15090

Danny D. and Mary G. Kuhns  
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Hostetter, PA 15638

Dorothy Rosenfelder  
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Gibsonia, PA 15044  
c/o Lynn Rahl, Esquire

Kenneth Frederick Burd  
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Derry, PA 15627

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Derry, PA 15627

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William W. Nicol, IV and Brenda J. Nicol  
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Derry, PA 15627

William J. Newcomer  
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McDonald, PA 15057

Stephen and Melanie Peterman  
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Latrobe, PA 15650

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Derry, PA 15627

James H. and Helen G. Daugherty  
128 Whites Road  
Derry, PA 15627

The Daniel G. Slavek, Jr. Trust  
1005 Sleepy Hollow Road  
Jeannette, PA 15644

Harvey Eger, Trustee  
Route 217  
Latrobe, PA 15650  
(Counsel for The Daniel G. Slavek, Jr. Trust)

Earl and Albina Killen  
269 Lockport Road  
Bolivar, PA 15923

Date: November 2, 2017

/s/ Robert O Lampl  
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JOHN P. LACHER  
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PA I.D. #205694  
RYAN J. COONEY  
PA I.D. #319213  
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